

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LUKE JOSEPH WARNER,)
Plaintiff,)
)
v.) Civil Action No. 19-cv-10082-MPK
)
UNITED STATES OF AMERICA, et al.,)
Defendants.)

PROCEDURAL ORDER

Plaintiff filed this civil action without paying the \$350.00 filing fee and the \$50.00 administrative fee.¹ It appears that he seeks in forma pauperis status because, on April 24, 2019, he filed a prison account statement. However, any plaintiff moving to proceed without prepayment of the filing fee must submit an affidavit that “includes a statement of all assets such prisoner possesses [showing] that the person is unable to pay such fees or give security therefor” and “state[s] the nature of the action, defense or appeal and affiant’s belief that the person is entitled to redress.” 28 U.S.C. § 1915(a)(1).

Although plaintiff has provided his prison account statement, the Court will not permit the plaintiff to proceed in forma pauperis at this time because he has not submitted the required affidavit.

Accordingly, **no later than Monday, June 3, 2019**, plaintiff either shall (1) pay the \$400.00 filing and administrative fees; or (2) submit the affidavit required under 28 U.S.C. § 1915(a)(1).² Failure of the plaintiff to comply with this directive may result in the dismissal of this action.

For the convenience of litigants, this Court provides the standardized form “Application to Proceed in District Court Without Prepaying Fees or Costs” for requests to proceed in forma pauperis. Submission of this completed Application will satisfy the affidavit requirement of 28 U.S.C. § 1915(a)(1). The Clerk is directed to provide the plaintiff with a copy of this form.

SO ORDERED.

5/10/2019
DATE

/s/ M. Page Kelley
UNITED STATES MAGISTRATE JUDGE

¹ The \$50.00 administrative fee became effective May 1, 2013; it does not apply to persons proceeding in forma pauperis. See Judicial Conference Fee Schedule.

² Unlike other civil litigants, prisoner plaintiffs are not entitled to a complete waiver of the filing fee, notwithstanding the grant of in forma pauperis status. Based on the information contained in the prison account statement, the Court will direct the appropriate prison official to withdraw an initial partial payment from the plaintiff’s account, followed by payments on a monthly basis until the entire \$350.00 filing fee is paid in full. See 28 U.S.C. § 1915(b)(1)-(2). Even if the action is dismissed upon a preliminary screening, see 28 U.S.C. §§ 1915(e)(2), 1915A, the plaintiff remains obligated to pay the filing fee, see McGore v. Wrigglesworth, 114 F.3d 601, 607 (6th Cir. 1997) (§ 1915(b)(1) compels the payment of the fee at the moment the complaint is filed).